

No. 2861

IN THE

United States Circuit Court of Appeals

For the Ninth Circuit

DHANNA SINGH,

Appellant,

VS.

UNITED STATES OF AMERICA,

Appellee.

BRIEF FOR APPELLANT.

JOSEPH P. FALLON,
Attorney for Appellant.

Filed

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F. D. Monckton,
Clerk.

FRANK D. MONCKTON, *Clerk.*

By.....*Deputy Clerk.*

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Appellant appeals from the order and judgment of the lower Court sustaining the demurrer interposed to his petition for a writ of habeas corpus.

The alien came to this country in the year 1908, remaining here until the year 1913, when he left the United States and went to the City of Vancouver, British Columbia, where he purchased real property to the value of five thousand and 00/100 (\$5000.00) dollars. On returning to the United States in the month of April, 1915, he was arrested charged with being in the country unlawfully, to wit:

1. Having entered the country without inspection.

2. That the alien was likely to become a public charge.

It is conceded that he entered the United States after due inspection in 1908, and remained therein until 1913, when he went to Canada and made an investment in some property in the City of Vancouver, British Columbia.

It is contended by the government that the fact that the detained was in Canada within three years of the time of his arrest started the running of the three-year statute anew, and any prior residence in the United States would not prevent his deportation.

Our contention is that while his sojourn in Canada may have started the running of the three-year statute anew the alien being a subject of Great Britain was entitled to deportation to Canada. The case of *Frick v. Lewis*, 233 U. S. 291, *Lem Sing v. United States*, 218 Fed. 432, in which it is held that an alien shall be deported to the country from which he originally came and in which he claims citizenship does not apply to the instant case. In the cases just cited the principals were subjects of Russia and China respectively, and were ordered returned to their respective countries; in the instant case the detained is a subject of Great Britain and came to the United States from the Dominion of Canada, a part of the British Empire, and as a subject of the British empire he should be returned to the country from whence he came, to wit, the British Dominion of Canada. If the deportation

of this alien is consummated according to the order of the Secretary of Labor a subject of Great Britain would be returned to an entirely different country of that empire from whence he came, and consequently is a violation of Section 20, of the Act of February 20,, 1907, of the Immigration Law, as amended by the Acts of March 26, 1910 and March 4, 1913. This alien states that he was not granted the privilege of counsel and that he was informed that counsel could be obtained at San Francisco, California; that on arriving at San Francisco he was informed for the first time that his case had been finally decided and that no further appeal was possible. During the whole proceeding he was without the advice or presence of counsel and being unfamiliar with the English language he was accredited with making statements that he never made.

As to the second ground for deportation, to wit, that he was likely to become a public charge, the reasons set forth in the brief filed in the companion case of *Gujar Singh et al. v. The United States*, Number 2860, would in this case have equal application.

We respectfully request that the order of the District Court denying the issuance of a writ of habeas corpus be reversed and that the writ of habeas corpus issue as prayed for.

Dated, San Francisco,
April 9, 1917.

JOSEPH P. FALLON,
Attorney for Appellant.

